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SUBPART 19.2 – POLICIES

(Revised May 13, 2019 to Reflect Expiration of DEVIATION 19-02)

19.201 General policy.

(c)(10)(A) For procurements valued over $10,000 and less than the SAT that are not totally set aside, the contracting officer shall document the reason for not setting aside the procurement on. DD Form 2579 and submit it to the procuring organization small business specialist for review.

(c)(10)(S-90) The contracting officer and the small business specialist shall—

(*1*) Conduct periodic reviews of automated awards to determine whether certain buys may be set aside for Historically Underutilized Business Zone (HUBZone), Service-Disabled Veteran-Owned Small Business (SDVOSB), Woman-Owned Small Business (WOSB), or 8(a) program participants.

(*2*) Jointly consider backing out individual or groups of transactions from the automated systems, based on a national stock number or federal supply class, with suppliers identified in the System for Award Management (SAM) and Small Business Administration (SBA) repository for HUBZone, SDVOSB, WOSB, or 8(a) program participants.

(c)(11) See 7.107-27.107-2 Consolidation. for policies regarding consolidations of contract requirements.

SUBPART 19.3 – DETERMINATION OF STATUS AS A SMALL BUSINESS, HUBZONE SMALL BUSINESS, OR SMALL DISADVANTAGED BUSINESS CONCERN

(Revised August 3, 2017 through PROCLTR 2017-19)

19.301 Representations and rerepresentations.

Contracting officers shall include the following procurement notes in solicitations as prescribed below:

(S-90) Use procurement note L11 in solicitations above the SAT.

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L11 Small Business Program Representations (AUG 2017)

(1) In order to facilitate the use of electronic commerce/electronic data interchange while fulfilling the requirements of the small business program, the Government provides certain socioeconomic

information in a coded format rather than a fill-in. Electronic commerce/electronic data interchange (EC/EDI) transactions are often reformatted in transmission. Using these codes prevents misinterpretations within the system and increases accuracy in socioeconomic program reporting.

(2) To reflect the representations and certifications contained in Federal Acquisition Regulation (FAR) 52.219-1, Small Business Program Representations, the offeror represents and certifies as a part of its offer that it is a ____ business type as defined in FAR 52.219-1. The offeror shall select the one alpha code from the following listing that represents the offeror's business type. The offeror's recording of its business type in this procurement note by means of an alpha code replaces the marking of the appropriate boxes in FAR 52.219-1(b). Penalties for misrepresentation of business status apply (see FAR 52.219-1, paragraph (d)(2)).

Code B = Small Business. Enter code B if your firm is a small business concern, as defined in FAR 52.219-1, paragraph (a).

Code M = Small Disadvantaged Business. Enter code M if your firm is a small disadvantaged business concern, as defined in FAR 52.219-1, paragraph (a).

Code U = Woman-Owned Small Disadvantaged Business. Enter code U if your firm is a woman-owned business, as defined in FAR 52.219-1, paragraph (a), and a small disadvantaged business, as defined in FAR 52.219-1, paragraph (a).

Code W = Woman-Owned Small Business. Enter Code W if your firm is a woman-owned small business, as defined in FAR 52.219-1, paragraph (a).

*****

(S-91) Use procurement note L12 for automated solicitations valued over the micro-purchase threshold and less than or equal to the SAT; or when an exception to the rule applies, and a set-aside to a HUBZone small business concern or small business concern is anticipated.

*****

L12 Combined Historically Underutilized Business Zone (HUBZone)/Small Business Set-Aside Instructions – Type 1 (AUG 2017)

(1) This solicitation is restricted to HUBZone small business concerns, small business concerns, and Federal Prison Industries (FPI). The Government encourages all small business concerns to submit quotations. The Government will make awards based on the following order of set-aside precedence:

(a) HUBZone small business concerns (Federal Acquisition Regulation (FAR) clause 52.219-3).

(b) If no qualified quote is received from a HUBZone small business concern at a fair market price, small business concerns (FAR 52.219-6) or FPI (FAR 52.219-6, Alternate II).

(2) The FAR clauses contained in this procurement note (except paragraph (b) of 52.219-3) apply to the solicitation. Only the FAR clause matching the awardee's Small Business Program and Type representation applies to the award.

*****

(S-92) Use procurement note L14 for automated solicitations valued over the micro-purchase threshold and less than or equal to the SAT; or when an exception to the rule applies, and a set-aside

to a service-disabled veteran-owned small business concerns, a HUBZone concern, or a small business concern is anticipated.

*****

L14 Combined Set-Aside Instructions – Type 1 (AUG 2017)

(1) This solicitation is restricted to small business concerns and Federal Prison Industries (FPI). The Government encourages all small business concerns to submit quotations. The Government will make awards based on the following order of set-aside precedence:

(a) Service-disabled veteran-owned small business (SDVOSB) concerns (Federal Acquisition Regulation (FAR) 52.219-27).

(b) If no qualified quote is received from an SDVOSB concern at a fair market price, historically underutilized business zone (HUBZone) small business concerns (FAR 52.219-3).

(c) If no qualified quote is received from a HUBZone small business concern at a fair market price, small business concerns (FAR 52.219-6) or FPI (FAR 52.219-6, Alternate II).

(2) The FAR clauses contained in this procurement note (except paragraphs (b) of 52.219-3 and 52.219-27) apply to the solicitation. Only the FAR clause matching the awardee's Small Business Program and Type representation applies to the award.

*****

(S-93) Use procurement note L16 for automated solicitations valued over the micro-purchase threshold and less than or equal to the SAT when the non-manufacturer rule is not waived; or when an exception to the rule applies, and a side-aside to an SDVOSB concern or a small business concern is anticipated.

*****

L16 Combined Service-Disabled Veteran-Owned Small Business/Small Business Set-Aside Instructions – Type 1 (AUG 2017)

(1) This solicitation is restricted to small business concerns and Federal Prison Industries (FPI). The Government encourages all small business concerns to submit quotations. The Government will make awards based on the following order of set-aside precedence:

(a) Service-Disabled Veteran-Owned Small Business (SDVOSB) concerns (Federal Acquisition Regulation (FAR) 52.219-27).

(b) If no qualified quote is received from a SDVOSB concern at a fair market price, small business concerns (FAR 52.219-6, Alternate I) or FPI (FAR 52.219-6, Alternate II).

(2) The FAR clauses contained in this procurement note (except paragraph 52.219-27) apply to the solicitation. Only the FAR clause matching the awardee's Small Business Program and Type representation applies to the award.

*****

(S-94) Use procurement note L17 for automated solicitations valued over the micro-purchase threshold but less than or equal to the SAT when the non-manufacturer rule is waived, no exception

to the rule applies, and a set-aside to a service-disabled veteran-owned small business concern or a small business concern is anticipated.

*****

L17 Combined Service-Disabled Veteran-Owned Small Business/Small Business Set-Aside Instructions – Type 2 (AUG 2017)

(1) This solicitation is restricted to service-disabled veteran-owned small business, small business concerns, and Federal Prison Industries (FPI). The Government encourages all small business concerns to submit quotations. The Government will make awards based on the following order of set-aside precedence:

(a) Service-disabled veteran-owned small business (SDVOSB) concerns (Federal Acquisition Regulation (FAR) 52.219-27).

(b) If no qualified quote is received from a SDVOSB concern at a fair market price, small business concerns (FAR 52.219-6, Alternate I) or FPI (FAR 52.219-6, Alternate II).

(2) The FAR clauses contained in this procurement note (except paragraph (b) of 52.219-27) apply to the solicitation. Only the FAR clause matching the awardee's Small Business Program and Type representation applies to the award.

*****

SUBPART 19.5 – SET-ASIDES FOR SMALL BUSINESS

(Revised January 13, 2023 through PROCLTR 2023-03)

19.502-7 Inclusion of Federal Prison Industries, Inc.

(S-90) The Defense Logistics Agency's automated simplified procurement system does not include items listed in the Federal Prison Industries, Inc. (FPI) Schedule (see FAR 8.601(d)). Contracting officers shall procure items listed in the FPI Schedule manually.

19.502-8 Rejecting Small Business Administration recommendations.

(b) If the CCO approves the action of the contracting officer, the next level of appeal shall be the HCA. If the HCA approves the action of the contracting officer, the procurement center representative shall be so advised and may proceed with the appeal actions prescribed in FAR 19.502-8.

19.506 Documentation requirements.

(S-90) For the documentation requirements at FAR 19.506(a) and (b), the contracting officer shall document on DD Form 2579, Small Business Coordination Record.

(i) The contracting officer shall submit the DD Form 2579 documenting the reasons the acquisition is not totally set aside for small business concerns in accordance with FAR 19.502-2 to the small business specialist for review (see DFARS 219.201-2(c)(10)).

(ii) The contracting officer shall include DD Form 2579, including the documentation requirements at FAR 19.506(a) and (b), in the contract file.

19.590 Cascading/ set-aside procurement notes for DLA's automated simplified procurement system.

(a) The Defense Logistics Agency's systems logic for automated simplified procurements considers the applicability of more than one type of set-aside using a cascading evaluation of offers (see DFARS 215.203-70).

(1) If the nonmanufacturer rule is waived (see FAR 19.505(c)(4)) and eligible offers are not received for a service-disabled veteran-owned small business (SDVOSB) set-aside or a HUBZone set-aside, the automated system will cascade to a small business set-aside.

(2) If the nonmanufacturer rule is waived and after cascading a SDVOSB set-aside or a HUBZone set-aside, no eligible offer is received from a small business concern at a fair market price, the automated systems will withdraw the set-aside and automatically resolicit on an unrestricted basis.

(3) If no eligible offers are received on a SDVOSB set-aside or a HUBZone set-aside and the nonmanufacturer rule is not waived, the automated system will cancel the solicitation and resolicit as a small business set-aside..

(b) Use procurement note L17 for automated solicitations valued over the micro-purchase threshold but less than or equal to the SAT when the nonmanufacturer rule (NMR) is waived and a set-aside to a service disabled veteran-owned small business concern is anticipated.

*****

L17 Service-Disabled Veteran-Owned Small Business/Small Business Set-Aside Cascade Instructions – NMR Waived (JUL 2022)

(1) This solicitation is restricted to service-disabled veteran-owned small business and small business concerns. The Government encourages all small business concerns to submit offers. The Government will make an award based on the following order of set-aside precedence:

(a) Service-disabled veteran-owned small business (SDVOSB) concerns (FAR 52.219-27 and 52.219-14 Limitations on Subcontracting (SEP 2021) (DEVIATION 2021- O0008)).

(b) If no eligible offer is received from a SDVOSB concern at a fair market price, then small business concerns (FAR 52.219-6).

(2) The clauses contained in this procurement note (except paragraph (b) of FAR 52.219- 27) apply to the solicitation. Only the clauses matching the awardee's Small Business Program and Type representation at (1)(a) or (1)(b) apply to the award.

(c) Use procurement note L36 for automated solicitations valued over the micro-purchase threshold but less than or equal to the SAT when the nonmanufacturer rule (NMR) is waived and a set-aside to

a HUBZone small business concern is anticipated.

L36 HUBZone Small Business/Small Business Set-Aside Cascade Instructions – NMR Waived (JUL 2022)

(1) This solicitation is restricted to HUBZone small business and small business concerns. The Government encourages all small business concerns to submit offers. The Government will make an award based on the following order of set-aside precedence:

(a) HUBZone small business concerns (FAR 52.219-3 and 52.219-14 Limitations on Subcontracting (SEP 2021) (DEVIATION 2021-O0008)).

(b) If no eligible offer is received from a HUBZone small business concern at a fair market price, then small business concerns (FAR 52.219-6).

(2) The clauses contained in this procurement note (except paragraph (b) of FAR 52.219-3) apply to the solicitation. Only the clauses matching the awardee's Small Business Program and Type representation at (1)(a) or (1)(b) apply to the award.

(d) Automated simplified procurement set-aside for women-owned small business (WOSB).

(1) If the nonmanufacturer rule is not waived (see FAR 19.505(c)(4)) and no eligible WOSB offers are received, the contracting officer shall resolicit as a small business set-aside if the requirement is still valid.

(2) If the nonmanufacturer rule is waived and no eligible WOSB offers are received, the contracting officer shall cascade to a small business set-aside.

(3) Use procurement note L37 in automated solicitations valued over the micro-purchase threshold but less than or equal to the SAT when a women-owned small business set-aside is anticipated and FAR clause 52.219-30, Notice of Set-Aside for, or Sole-Source Award to, Women-Owned Small Business Concerns Eligible Under the Women-Owned Small Business Program, is included.

L37 Women-Owned Small Business Program/Small Business Set-Aside Cascade Instructions – NMR Waived (JAN 2023)

(1) This solicitation is restricted to women-owned small business and small business concerns. The Government encourages all small business concerns to submit offers.

(2) *Applicability*. This procurement note applies to automated solicitations valued over the micro-purchase threshold but less than or equal to the SAT, when—

(a) Set-aside for women-owned small business (WOSB);

(b) The nonmanufacturer rule has been waived (see FAR 19.505(c)(4)); and

(c) FAR clause 52.219-30, Notice of Set-Aside for, or Sole-Source Award to, Women-Owned Small Business Concerns Eligible Under the Women-Owned Small Business Program, is included in the solicitation.

(3) *General*.

(a) FAR clause 52.219-30, except paragraph (b), applies to this solicitation.

(b) FAR 19.1503 requires WOSB concerns to be certified by the Small Business Administration to be eligible for set-asides under the WOSB Program (see 13 CFR 127.300). A certified economically disadvantaged women-owned small business (EDWOSB) is automatically eligible as a certified WOSB.

(c) The Government will make an award based on the following order of set-aside precedence—

(1) Certified WOSB; or

(2) If no eligible offer is received from a certified WOSB concern at a fair market price, a small business concern.

(d) The following clause(s) apply when award is made to—

(1) Certified WOSB, FAR 52.219-30 and 52.219-14 Limitations on Subcontracting (SEP 2021) (DEVIATION 2021-O0008)); or

(2) After cascade evaluation, small business concern, FAR 52.219-6.

*****

(e) Automated simplified procurement set-aside for economically disadvantaged women-owned small business (EDWOSB).

(1) If the nonmanufacturer rule is not waived (see FAR 19.505(c)(4)) and no eligible EDWOSB offers are received, the contracting officer shall resolicit as a small business set-aside if the requirement is still valid.

(2) If the nonmanufacturer rule is waived and eligible EDWOSB offers are not received, the contracting officer shall cascade to a small business set-aside.

(3) Use procurement note L38 for automated solicitations valued over the micro-purchase threshold but less than or equal to the SAT when an economically disadvantaged women-owned small business set-aside is anticipated and FAR clause 52.219-29, Notice of Set-Aside for, or Sole-Source Award to, Economically Disadvantaged Women-owned Small Business Concerns, is included.

*****

L38 Economically Disadvantaged Women-Owned Small Business/Small Business Set-Aside Cascade Instructions – NMR Waived (JAN 2023)

(1) This solicitation is restricted to economically disadvantaged women-owned small business (EDWOSB) and small business concerns. The Government encourages all small business concerns to submit offers.

(2) *Applicability*. This procurement note applies to automated solicitations valued over the micro-purchase threshold but less than or equal to the SAT, when—

(a) Set-aside for EDWOSB;

(b) The nonmanufacturer rule has been waived (see FAR 19.505(c)(4)); and

(c) FAR clause 52.219-29, Notice of Set-Aside for, or Sole-Source Award to, Economically Disadvantaged Women-owned Small Business Concerns, is included in the solicitation.

(3) *General*.

(a) FAR clause 52.219-29, except paragraph (b), applies to this solicitation.

(b) FAR 19.1503 requires EDWOSB concerns to be certified by the Small Business Administration to be eligible for set-asides under the WOSB Program (see 13 CFR 127.300).

(c) The Government will make an award based on the following order of set-aside precedence—

(1) Certified EDWOSB; or

(2) If no eligible offer is received from a certified EDWOSB concern at a fair market price, a small business concern.

(d) The following clause(s) apply when award is made to—

(1) Certified EDWOSB, FAR 52.219-29 and 52.219-14 Limitations on Subcontracting (SEP 2021) (DEVIATION 2021-O0008)); or

(2) After cascade evaluation, small business concern, FAR 52.219-6.

*****

SUBPART 19.6 – CERTIFICATES OF COMPETENCY

(Revised August 3, 2017 through PROCLTR 2017-19)

19.602 Procedures.

19.602-1 Referral.

(S-90) Procuring organizations may use DLA Form 1756, Referral of Small Business for Certificate of Competency (CoC) Consideration.

19.602-3 Resolving differences between the Agency and the Small Business Administration.

(c)(S-90)(i) Within 3 working days after receiving the SBA headquarters notification of its intention to uphold the SBA area office decision to issue a CoC, the contracting officer shall email a report to the DLA Acquisition Compliance, Policy and Pricing Division summarizing the facts of the case. The contracting officer shall send voluminous reports by express mail. The contracting officer shall include in the report the name of the prospective contractor, the item, the quantity, the dollar value, the specific elements for which the prospective contractor was determined to be nonresponsible, a copy of the relevant portions of the preaward survey, SBA’s rationale for issuing the CoC, and the proposed alternative means of satisfying the requirements. The contracting officer shall forward a

copy of the report to the procuring organization small business specialist.

(ii) The DLA Acquisition Director shall review the report and determine whether to support the formal appeal or accept the COC. The DLA Acquisition Compliance, Policy and Pricing Division shall advise the contracting officer of the DLA Acquisition Director's decision within 5 working days and provide a copy of the decision to the Small Business Programs Director.

(iii) If the DLA Acquisition Director supports the contracting officer's intent to appeal, the DLA Acquisition Compliance, Policy and Pricing Division will advise the contracting officer to forward the formal appeal to the departmental director of the Office of Small Business Programs (reference DFARS PGI 219.602-3) within 5 working days and simultaneously provide a copy to the DLA Acquisition Director. The contracting officer shall include in the formal appeal the report provided to the DLA Acquisition Compliance, Policy and Pricing Division, an update on the contractor's progress toward becoming responsible, and a discussion of the attempts made to reconcile differences with the SBA. The contracting officer shall index and tab the formal appeal.

(S-91) Once the procuring organization submits the formal appeal to SBA headquarters, DLA contracting personnel are not authorized to waive the right to appeal or to forfeit an appeal without the concurrence of the DLA Acquisition Director. If the procuring organization requests such concurrence, the contracting officer shall provide substantially the same type of information submitted in the report notifying the DLA Acquisition Director of the contracting officer's intention to appeal.

(S-92) The contracting officer shall forward all reports submitted to the DLA Acquisition Director concerning COC appeals through the CCO.

(S-93) The requirements of 19.602-3(c)(S-90)-(S-92) do not apply to simplified acquisitions. Procuring organizations may develop procedures to process appeals on simplified acquisitions.

19.602-4 Awarding the contract.

(c)(S-90) If the SBA area office has not responded to the procuring organization within 5 working days after referral, the procuring organization will contact the SBA area office to confirm if it is processing a CoC. Contracting officers shall document the contract file to reflect they took this action.

(S-91) For simplified acquisitions, the contracting officer shall not agree to a period of time longer than 15 working days for the SBA to issue a COC before proceeding to award to another offeror, unless the extension is approved by the CCO.

SUBPART 19.7 – THE SMALL BUSINESS SUBCONTRACTING PROGRAM

(Revised October 13, 2020 through PROCLTR 2020-22)

19.705 Responsibilities of the contracting officer under the subcontracting assistance program.

19.705-4 Reviewing the subcontracting plan.

(d)(7) Obtain advice and recommendations from the small business office at the local contract administration office, when applicable.

19.705-5 Awards involving subcontracting plans.

(S-90) The Subcontracting Program Checklist (https://www.dla.mil/Portals/104/Documents/SmallBusiness/Checklist.pdf) identifies contracting officer responsibilities. The DLA Office of Small Business Programs will be conducting surveillance reviews to monitor compliance.

SUBPART 19.8 – CONTRACTING WITH THE SMALL BUSINESS ADMINISTRATION

(THE 8(a) PROGRAM)

(Revised August 3, 2017 through PROCLTR 2017-19)

19.803 Selecting acquisitions for the 8(a) program.

(a)(4)(S-90) The contracting officer shall coordinate with the procuring organization small business specialist to ensure follow-on 8(a) contract support is provided for that period of time reflected in the SBA approved business plan.

(c)(S-90) Contracting officers shall consider the 8(a) program as a possible method of satisfying all new requirements being processed for contract action. Contracting officers shall give special attention to commodities and services expected to be recurring requirements and for which there is a limited number of prospective small business sources.

SUBPART 19.13 – HISTORICALLY UNDERUTILIZED BUSINESS ZONE (HUBZONE) PROGRAM

(Revised August 29, 2022 through PROCLTR 2022-17)

19.1305 HUBZone set-aside procedures.

(c)(S-90) If the contracting officer determines the HUBZone set-aside shall be withdrawn, the reasons supporting the decision shall be documented on DD Form 2579, Small Business Coordination Record, or in an attached and signed memorandum for record to amend an existing DD Form 2579. The DD Form 2579 shall be retained in the contract file.

SUBPART 19.14 – SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS PROCUREMENT PROGRAM

(Revised August 29, 2022 through PROCLTR 2022-17)

19.1405 Service-disabled veteran-owned small business set-aside procedures.

(c)(S-90) If the contracting officer determines the service-disabled veteran-owned small business (SDVOSB) program set-aside shall be withdrawn, the reasons supporting the decision shall be documented on DD Form 2579, Small Business Coordination Record, or in an attached and signed memorandum for record to amend an existing DD Form 2579. The DD Form 2579 shall be retained in the contract file.

SUBPART 19.15 – WOMAN-OWNED SMALL BUSINESS PROGRAM 8

(Revised August 29, 2022 through PROCLTR 2022-17)

19.1505 Set-aside procedures.

(f)(S-90) If the contracting officer determines the woman-owned small business (WOSB) set-aside or the economically disadvantaged women-owned small business (EDWOSB) setaside under the WOSB program shall be withdrawn, the reasons supporting the decision shall be documented on DD Form 2579, Small Business Coordination Record, or in an attached and signed memorandum for record to amend an existing DD Form 2579. The DD Form 2579 shall be retained in the contract file.